

Introduced by Senator Ortiz

February 18, 2005

An act to add Section 1367.27 to the Health and Safety Code, and to add Section 10123.175 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 576, as introduced, Ortiz. Health care coverage: tobacco cessation services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act's provisions a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan and a health insurer are deemed to provide coverage for specified tests, including all generally medically accepted cancer screening tests.

This bill would require certain health care service plan contracts and health insurance policies that provide outpatient prescription drug benefits to also provide coverage for tobacco cessation services, as specified.

Because a violation of the bill's provisions with respect to a health care service plan would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares:

2 (a) Providing tobacco cessation counseling and medication is
3 one of the most clinically effective and cost-effective health
4 services available, second only to inoculations. Tobacco
5 cessation is five to 80 times more cost-effective than
6 pharmacologic interventions used to prevent heart attacks.

7 (b) More than 70 percent of smokers wish they could quit
8 tobacco, and each year one of every two smoker's attempts to
9 quit. However, the unassisted successful tobacco quit rate has
10 remained constant at less than five percent. Access to counseling
11 and pharmaceutical benefits doubles the successful quit rate and
12 has achieved quit rates of 25 to 30 percent. Experience in health
13 plans indicates that access to all cessation services saves four
14 dollars (\$4) for every dollar (\$1) invested.

15 (c) Each adult smoker costs employers one thousand seven
16 hundred sixty dollars (\$1,760) in lost productivity and one
17 thousand six hundred twenty-three dollars (\$1,623) in excess
18 medical expenditures. Men who smoke incur fifteen thousand
19 eight hundred dollars (\$15,800) more lifetime medical expenses
20 than do men who do not smoke. For employers, the ultimate
21 financial return is between five dollars (\$5) and six dollars (\$6)
22 dollars for every dollar spent on tobacco cessation.

23 (d) Because of member transfers between plans, financial
24 savings and tobacco related disease reductions are effective only
25 if universally available to the entire insured population.
26 Therefore a mandate on all plans and insurers to provide
27 cost-effective treatment is necessary and beneficial.

28 (e) It is the intent of the Legislature that this act diminish the
29 statewide economic and personal cost of tobacco addiction by
30 making tobacco cessation treatments available to all smokers.
31 California has successfully reduced tobacco consumption in the
32 last decade, but, despite that success, tobacco use is responsible
33 for the unnecessary deaths of 40,000 residents and remains the
34 leading cause of preventable death in this state. Annually,

1 tobacco addiction costs California \$8.6 billion in direct medical
2 costs, which is approximately 12 percent of all health care costs.

3 SEC. 2. Section 1367.27 is added to the Health and Safety
4 Code, to read:

5 1367.27. (a) A health care service plan contract, except a
6 specialized health care service plan contract, that is issued,
7 amended, delivered, or renewed on or after July 1, 2006, that
8 provides outpatient prescription drug benefits, shall include
9 coverage for the following tobacco cessation services:

10 (1) Personal counseling for a minimum of four counseling
11 sessions of at least 30 minutes each, including proactive
12 telephone counseling or individual counseling.

13 (2) Brief cessation intervention by physician and clinical staff
14 including asking about tobacco use status, advising regarding a
15 quit attempt, assisting in a quit attempt, and arranging cessation
16 services.

17 (3) All prescription and over-the-counter tobacco cessation
18 medications approved by the Food and Drug Administration to
19 help smokers quit. These drugs include drugs for nicotine
20 replacement therapy and prescription drug therapies in, but not
21 limited to, the form of gum, dermal patch, inhaler, nasal spray
22 and lozenge, and Bupropion SR or similar drugs that counter the
23 urge to smoke or the addictive qualities of nicotine.

24 (4) Enrollees, beneficiaries, and their providers may select a
25 course of treatment and those services and products that they
26 prefer. Coverage for personal counseling and medication,
27 whether by prescription or over-the-counter, may be limited to
28 two courses of treatment per year. Referrals for tobacco cessation
29 services, the outcome of the referrals, and the smoking status of
30 referred beneficiaries shall be entered into the patient's medical
31 record.

32 (b) No copayment or deductible shall be applied to benefits
33 under this section.

34 (c) A health care service plan may contract with qualified
35 local, statewide or national providers, whether for-profit or
36 nonprofit, for the provision of services under this section.

37 (d) Coverage for interventions shall include reimbursement for
38 physician counseling in the office, reimbursement for provision
39 of physician provided tobacco cessation counseling and

1 assistance with implementation of office-based systems to help
2 providers identify and treat patients.

3 (e) A health care service plan shall disclose the benefits under
4 this section in its evidence of coverage and disclosure forms and
5 communicate the availability of coverage to all group
6 subscribers.

7 (f) For the purposes of this section, benefits for tobacco
8 cessation shall comply with the Public Health Service sponsored
9 2000 clinical practice guideline, “Treating Tobacco Use and
10 Dependence” or its successors.

11 SEC. 3. Section 10123.175 is added to the Insurance Code, to
12 read:

13 10123.175. (a) Every individual or group health insurance
14 policy that is issued, amended, delivered, or renewed on or after
15 July 1, 2006, that provides outpatient prescription drug benefits,
16 shall include coverage for the following tobacco cessation
17 services:

18 (1) Personal counseling for a minimum of four counseling
19 sessions of at least 30 minutes each, including proactive
20 telephone counseling or individual counseling.

21 (2) Brief cessation intervention by physician and clinical staff
22 including asking about tobacco use status, advising regarding a
23 quit attempt, assisting in a quit attempt, and arranging cessation
24 services.

25 (3) All prescription and over-the-counter tobacco cessation
26 medications approved by the Food and Drug Administration to
27 help smokers quit. These drugs include drugs for nicotine
28 replacement therapy and prescription drug therapies in, but not
29 limited to, the form of gum, dermal patch, inhaler, nasal spray
30 and lozenge, and Bupropion SR or similar drugs that counter the
31 urge to smoke or the addictive qualities of nicotine.

32 (4) Enrollees, beneficiaries, and their providers may select a
33 course of treatment and those services and products that they
34 prefer. Coverage for personal counseling and medication,
35 whether by prescription or over-the-counter, may be limited to
36 two courses of treatment per year. Referrals for tobacco cessation
37 services, the outcome of the referrals, and the smoking status of
38 referred beneficiaries shall be entered into the patient’s medical
39 record.

1 (b) No copayment or deductible shall be applied to benefits
2 under this section.

3 (c) A health insurer may contract with qualified local,
4 statewide or national providers, whether for-profit or nonprofit,
5 for the provision of services under this section.

6 (d) Coverage for interventions shall include reimbursement for
7 physician counseling in the office, reimbursement for provision
8 of physician provided tobacco cessation counseling and
9 assistance with implementation of office-based systems to help
10 providers identify and treat patients.

11 (e) A health insurance policy shall disclose the benefits under
12 this section in its evidence of coverage and disclosure forms and
13 communicate the availability of coverage to all group
14 subscribers.

15 (f) For the purposes of this section, benefits for tobacco
16 cessation shall comply with the Public Health Service sponsored
17 2000 clinical practice guideline, “Treating Tobacco Use and
18 Dependence” or its successors.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the
24 penalty for a crime or infraction, within the meaning of Section
25 17556 of the Government Code, or changes the definition of a
26 crime within the meaning of Section 6 of Article XIII B of the
27 California Constitution.